

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A
JUDGE, No. 03-14

Case No.: SC 04-1

SPECIAL COUNSEL'S RESPONSE TO MOTION TO STRIKE

Special Counsel to the Florida Judicial Qualifications Commission responds to the Honorable James E. Henson's motion to strike Special Counsel's notice of filing, and says:

1. Judge Henson asserts the Hearing Panel did not consider the information contained in the errata sheet for the deposition transcript of Dr. Alberto Jimenez because the errata sheet was not contained in the record. However, the videotaped deposition, to which Dr. Jimenez's errata sheet applies, was viewed by the Hearing Panel and is a part of the record. As stated in Special Counsel's notice of filing Dr. Jimenez's errata sheet, Dr. Jimenez's videotaped deposition testimony, particularly when considered in the context of his language problems and the substance of his other testimony, was more consistent with his errata sheet than the written transcript.

2. Judge Henson attempts to divert this Court's attention to a portion of Dr. Jimenez's transcribed testimony that is confusing because of punctuation and second-language problems. There can be no doubt that Dr. Jimenez testified that he told Judge Henson there is an extradition treaty between the United States and Colombia, that it was Judge Henson who claimed there was no extradition from Colombia, and that Dr. Jimenez did not want Diana Jimenez to flee to Colombia, despite Judge Henson's advice that she should flee:

He [Judge Henson] said, "The only situation is that we can put" – he said, "We can put your daughter Diana on a plane to Puerto Rico and from Puerto Rico to Colombia."


I said, "No, I don't accept that. Because I know that there is a treaty between Colombia and the United States, extradition."

(Testimony of Dr. Jimenez, T. 279).

3. English is not Dr. Jimenez's first language, and the reporters (both at deposition and trial) had difficulty accurately transcribing and punctuating his testimony. Judge Henson's attempt to seize on a confusion of punctuation and pronouns to avoid the substance of Dr. Jimenez's testimony is a misguided diversion.

4. This Court should not be distracted by this argument and should get a full understanding of Dr. Jimenez's testimony through viewing his and Diana Jimenez's videotaped depositions.

SMITH HULSEY & BUSEY

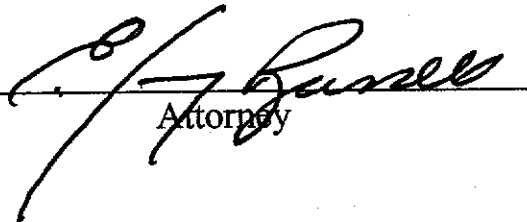
By 
E. Lanny Russell
Scott B. Kalil

Florida Bar Number 303097
Florida Bar Number 667994
225 Water Street, Suite 1800
Jacksonville, Florida 32202
(904) 359-7700
(904) 359-7708 (facsimile)

Special Counsel for the Florida
Judicial Qualifications Commission

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
has been furnished by mail to Kirk N. Kirkconnell, Esq., Kirkconnell,
Lindsey, Snure & Yates, P.A., 1150 Louisiana Avenue, P.O. Box 2728,
Winter Park, Florida 32790, on this 23rd day of May, 2005.



Attorney

00496649